

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

KEVIN MICHAEL BROPHY, JR.,

Plaintiff,

v.

**BELCALIS ALMANZAR aka CARDI
B; KSR GROUP, LLC; WASHPOPPIN,
INC.; and DOES 1 – 20,**

Defendants.

Case No.: SACV 17-01885-CJC(JPRx)

**ORDER DENYING PLAINTIFF'S
APPLICATION TO FILE UNDER
SEAL OPPOSITION TO MOTION TO
DISMISS AND SUPPORTING
EXHIBITS [Dkt. 56]**

I. INTRODUCTION

Plaintiff Kevin Michael Brophy, Jr. brings this diversity action asserting various state law claims for privacy and publicity rights against Defendants Belcalis Almanzar, also known as Cardi B, KSR Group LLC, Washpoppin, Inc., and Does 1 through 20.

(Dkt. 1 [Complaint, hereinafter “Compl.”].) Pending before the Court is Defendants’ motion to dismiss for lack of personal jurisdiction, lack of subject matter jurisdiction, and failure to state a claim. (Dkt. 50.) In opposition to Defendants’ motion, Plaintiff has filed a number of exhibits. Plaintiff seeks to file his opposition brief and these exhibits under seal. (Dkt. 56 [hereinafter “App.”].) For the following reasons, Plaintiff’s application to file under seal his opposition brief and supporting exhibits is **DENIED**.

II. ANALYSIS

A party seeking to file documents under seal “bears the burden of overcoming [the] strong presumption” in favor of public access to court records. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096 (9th Cir. 2016) (quotation omitted). “The presumption of access is ‘based on the need for federal courts, although independent—indeed, particularly because they are independent—to have a measure of accountability and for the public to have confidence in the administration of justice.’” *Id.* (quotation omitted). “Unless a particular court record is one traditionally kept secret, a strong presumption in favor of access is the starting point.” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). “[C]ompelling reasons’ must be shown to seal judicial records attached to a dispositive motion.” *Id.* at 1179. For nondispositive motions, a party must establish “good cause,” with a “particularized showing” of the need to file the document under seal. *Id.*

Plaintiff seeks to file the following documents under seal: (1) his opposition brief, (2) the deposition of Defendant Cardi B, (2) a digital distribution document between Defendant KSR Group, LLC and EMPIRE Distribution, (3) an agreement between Klenord “Shaft” Raphael and WB Music Corp, (4) email correspondence about Cardi B’s tour, (5) sales graphs for Defendant KSR Group, LLC for 2016 and 2017, (6) photo edits of the cover of Gangsta Bitch mixtape, and (7) an agreement between Atlantic Recording

1 Corporation and Defendant Washpoppin, Inc. Defendants have designated this material
 2 as confidential in their protective order. With respect to the photo edits of the Gangsta
 3 Bitch mixtape cover, Defendants assert these images should be sealed because they have
 4 never been published. (App. at 3.) And with respect to the deposition testimony of Cardi
 5 B, Defendants contend that this testimony should be sealed because some would consider
 6 this testimony to be “sensational and gossip-worthy.” (*Id.* at 4.)

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 8 There are neither compelling reasons nor good cause to file these documents under
 9 seal.¹ A generalized and cursory reference to the parties’ protective order is not a
 10 sufficient basis to deny public access to the documents. *See Joint Equity Comm. of Inv’rs*
 11 *of Real Estate Partners, Inc. v. Coldwell Banker Real Estate Corp.*, 2012 WL 234396, at
 12 *2 (C.D. Cal. Jan. 24, 2012). Similarly, the fact that an image has never been published
 13 is not a reason to deny public access. The parties do not identify any undesirable effect if
 14 they were to publish those images for the first time. Lastly, a generalized concern about
 15 “gossip” or possible embarrassment fails to outweigh the presumption in favor of access.
 16 *See Prescient Acquisition Grp., Inc. v. MJ Publ’g Tr.*, 487 F. Supp. 2d 374, 376
 17 (S.D.N.Y. 2007) (refusing to seal documents related to Michael Jackson based on “a
 18 generalized concern of adverse publicity concerning a public figure”). Plaintiff’s
 19 application to file under seal is **DENIED**.

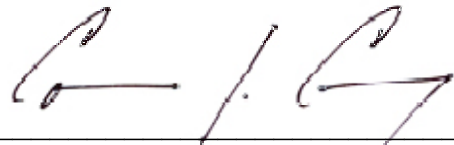
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 25 ¹ In his application to seal, Plaintiff does not identify whether the pending motion to dismiss is
 26 dispositive or nondispositive and therefore whether the “compelling reason” or “good cause” standard
 27 applies. A motion is nondispositive if it is “unrelated, or only tangentially related, to the underlying
 28 cause of action.” *Pintos v. Pac. Creditors Ass’n*, 605 F.3d 665, 678 (9th Cir. 2010) (internal quotation
 marks and citation omitted). The pending motion to dismiss is dispositive because it is related to the
 underlying cause of action, as Defendants seek to dismiss the Complaint for failure to state a claim.
 Since the motion is dispositive, there must be compelling reasons to file documents under seal. In any
 event, the parties fail to establish even the lower standard of good cause.

1 **III. CONCLUSION**

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3 For the foregoing reasons, Plaintiff's application to file under seal his opposition
4 brief and supporting exhibits is **DENIED**. Plaintiff is directed to file unredacted versions
5 of his opposition brief and supporting exhibits on the docket by **Tuesday, August 20,**
6 **2019.**

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10 DATED: August 19, 2019

A handwritten signature in dark ink, appearing to read 'C. J. Carney', is written over a horizontal line.

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12 CORMAC J. CARNEY
13 UNITED STATES DISTRICT JUDGE
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